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ABSTRACT

Issues in the correctional education of handicapped children are addressed and reasons for lack of full compliance with P.L. 94-142, the Education for All Handicapped Children Act, are examined. It is suggested that it is unreasonable to expect corrections to provide highly specialized education and other rehabilitation services, due to such problems as shortage of trained staff, high turnover of population, and difficuly in finding and involving parents. Several approaches are listed whereby special educators can help solve the problems, including educating correctional administrators to understand the law and its implications and becoming expert witnesses in court. The necessity of promoting cooperation between correctional and special educators is emphasized. (CL)

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Meeting the Needs of Youth from a Corrections Viewpoint

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Recent data indicate that there are approximately .5%, or one-half, special education staff per correctional institution in the United States to serve a daily average population of some 600,000 men, women, and children, 40% (or some 240,000) of whom are believed to suffer from some kind of handicapping condition. The sad fact is that most adult inmates needing special education are not served at all; and juveniles, if they are served, receive only marginal or inadequate services. So as you see, corrections desperately needs you, your skills, your expertise.

Before I go on with my remarks, however, it is important that you understand where I come from. I am not a federal employee in the traditional sense. The Corrections Program which I have headed since its inception in December of 1980 is quite unique. Although housed in the U.S. Department of Education, it is funded by the National Institute of Corrections to provide advocacy for and render technical assistance to the field of correctional education in the broad sense. My role in the Corrections Program is that of a private consultant, so I have the luxury of being able to speak more independently, perhaps more frankly, than the typical civil servant is generally permitted to do. So what I say here reflects only my own views, so do not assume that I represent either the Administration's philosophy or U.S. Department of Education policy.

It has been pointed out that a society's degree of civilization can be measured by how it treats its least fortunate citizens — the very young and the very old, the sick and the handicapped, the victims of crime and those imprisoned for crime. It seems to me that how we treat one of our most disadvantaged groups — handicapped youngsters in correctional institutions — might well be a test of what kind of society we have and what we are. So I would like to focus my remarks here on *who* these youngsters are, what *services* are currently available to them, what some of the problems of service delivery are, and to suggest some ways in which *you* as a professional can assist the field of corrections and society in creating not only more, but more effective programs.

I for one do not believe that handicapped kids belong in prison; certainly not handicapped kids who have committed nonviolent crimes; and certainly not unless correctional insitutitions are able to provide the services mandated under P.L. 94-142. But we do have to face reality, and the reality is that at the moment we have a large number of youngsters in corrections who meet the criteria as established under that law. The current, most frequently cited

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estimate is that at least 42% of the 43,000 youngsters who on an average day are in juvenile correctional facilities suffer from some kind of handicap, the most frequent being educable mentally retarded, seriously emotionally disturbed, and specific learning disabled. At least three states have declared that their entire institutionalized juvenile delinquent population is "handicapped" using the broadest possible interpretation of P.L. 94-142. They might well be right in doing so.

As those of you who have worked in corrections know so well, the typical youngster in a correctional facility is multiply disadvantaged, usually economically deprived, more likely than not having been a victim of child abuse, with one or no parent at home. His/her record typically contains foster care placements, truancy, school failure, drug or alcohol abuse, and frequent brushes with the law. Poor self-concept, emotional problems, and poor impulse control fill out the typical picture.

Statistics and generalizations are, as someone said, only people without fears. And they are all too easy to ignore. So I would like for you to meet three youngsters whom I wish I could tell you are *not* common in correctional institutions; unfortunately they are. Two I met personally; one I have read about.

Meet Jimmy — a small, pale, undersized 10-year-old. I ran across him in a New England training school. His crimes were bedwetting and running away from home. His parents had tried to cure him of bedwetting by beating him. He had been placed in the correctional institution pending foster care placement. This had already been pending 7 months when I met him. Jimmy still wet his bed, but his institutional bed had been wet by so many others before him that no one seemed to care. Jimmy was rather happy because no one punished him for wetting his bed. What plans did they have for Jimmy? None. "We are not staffed and equipped for that kind of a kid. He should not be here."

Meet Charley, 15½ years old, a black kid from the Washington slums. He volunteered to be my tour guide to get out of the classroom where he was working on mastering the alphabet. Charley could not read or write, although he had a grade card showing that he had attended 9 years of school in D.C. One year his attendance record showed 20 days present; in the 9th grade no one seemed to know if he had been there at all. Yet he had been promoted. His guardian was an old aunt of advanced senility. She said Charley did not stay with her often. Actually, Charley lived in the streets. His crime — murder of a 17-year-old. He said "it was necessary." After 6 months in the institution Charley was still being assessed. In 2½ years, Charley will be out on the streets. Can we afford 6 months or more of assessment?

Finally, meet Steve, 17½ years old. Steve held up a bank at gunpoint, then waited for the police with bills stuffed into his pockets. He never said much to his court appointed lawyer nor to the judge. Because of the serious nature of his crime, armed robbery, and being so near 18, the judge sentenced him as an adult. Steve is now serving time in an adult prison. No one during the pretrial and presentence investigations seemed to catch on to the fact that Steve is mentally retarded, and the fact was ignored that he held up the bank with a plastic toy gun he had purchased in a dime store for $1.99.

I could have picked a lot more and different case histories, but these three should be of special concern to you. They have one thing in common; they all fall under the definition of handicapped as used in P.L. 94-142. Yet in each case, it is obvious that these kids were not receiving the services and care mandated by Congress.

Although it is by now well known that there is a disproportionately large

number of handicapped youth in corrections, it is not well understood what the exact relationship is between certain kinds of handicapping conditions, such as mental retardation or learning disabilities, and crime.

Santamour and West in their studies of mentally retarded offenders point out that there are at least three times as many retarded persons in correctional institutions as in the general population. But their research also indicates that the mentally retarded are not more *prone* to criminal behavior than so-called normal people, but are more often caught, convicted, and sentenced and are less able to defend themselves adequately in court, less apt to plea bargain.

Santamour and West point out that mentally retarded offenders serve an average of 2 to 3 years longer sentences. Often failing to meet parole criteria, they have to serve out their full sentences. The reason they often fail to get parole is that they show poor progress in prison schools and usually have a lot of disciplinary infractions, commonly because they have a hard time understanding prison rules and directions by correctional guards.

If these inequities are not shocking enough, it should further be pointed out that the mentally retarded in correctional facilities are commonly victimized by fellow inmates and are more deeply and lastingly influenced by prison subcultures, Most correctional institutions have *no* special programs for the mentally retarded. They fall through the cracks.

The plight of learning disabled youths in prison is similar. In recent years, the National Institute of Justice has sponsored one of the few careful research efforts to try to understand the relationship between learning disability and crime. Earlier surveys had estimated that 10.6% of juvenile offenders suffer from specific learning disabilities as compared to only 1.5% in the general population. The earlier NIJ reports came to similar conclusions to those of Santamour — namely that learning disabled youths do not engage in more delinquent acts but are differently, more severely treated by the criminal justice system, and that this alone accounts for the higher proportion of learning disabled in correctional institutions.

However, a very recent study conducted by the National Center for State Courts comes to quite a different conclusion. It shows a significant relationship between learning disability and the commitment of delinquent acts. As compared to a control group of nonlearning-disabled youths, youngsters with this handicap committed significantly more acts of violence, theft, alcohol and marijuana abuse, and school misbehavior. This study, however, also came up with somewhat encouraging results in terms of the positive effects of specialized instructions, supporting the proposition that effective academic, vocational, and rehabilitation programs for the handicapped young offender are an investment that can reduce recidivism and welfare costs for both the state and federal government and for us, the taxpayers. The problem, of course, is that we do not have either the quantity or the quality programs needed so desperately at this time.

The two things almost all the literature on the relationship between learning disabilities, crime, and remediation strategies stress are (a) the need for a holistic, individualized approach, and (b) the crucial role played by the remediator/student interpersonal relationship. Students who had developed a strong, positive relationship with his or her special education teacher committed fewer repeat crimes. This should tell us never to underestimate the power of a good teacher!

P.L. 94-142 then, would seem tailormade to meet the special needs of the handicapped delinquent population in our juvenile correctional institutions. The intent of this law is "zero reject," and the law specifically states that

handicapped children in correctional institutions are to be included. Yet the evidence shows that to date, after 7 years of experience with this act, P.L. 94-142 comes nowhere near being fully or even adequately implemented in corrections.

Why is this so? A major reason is, as a study conducted by my office a year ago indicated, that correctional agencies have found the administration of P.L. 94-142 more problematical than any other piece of federal legislation. As one respondent wrote: "Perhaps the best-intentioned program, yet the least appreciated and poorly administered, is P.L. 94-142. Written mainly for public schools, it is almost impossible to apply its provisions to a correctional institution." And finding it difficult, many correctional agencies have chosen to ignore or give only token attention to this *mandate* from the United States Congress. And the courts, although not entirely idle in this regard, have not interfered very frequently or very vigorously. As a result, our data indicate that only five states can claim full compliance with P.L. 94-142 in their correctional facilities.

But the evidence also shows that, however difficult it may be, P.L. 94-142 *can* and *has been* successfully implemented in Corrections. Exemplary programs and models *do* exist, which *can* and *must* be replicated. I believe this conference offers several workshops in this regard. But in order for this to happen, corrections needs *you*, the special educators.

Just as it is unreasonable to expect our schools to control crime, it is unreasonable to expect corrections to provide highly specialized education and other rehabilitation services. The legislators who drafted P.L. 94-142 wisely recognized this when they made the state education agency solely responsible for ensuring that every handicapped child (including those in correctional institutions) has access to a free and appropriate education.

But please do not misunderstand me. Because corrections has fumbled and stumbled with the ball, I am not trying to toss it into your court exclusively. Correctional agencies cannot be absolved from all responsibility; however, it is the primary job of corrections to protect society from offenders and the offenders from one another. And believe me, some of the so-called kids in corrections are both violent and dangerous. As a matter of fact, approximately 45% of all violent crime is currently committed by people under 20. But corrections must also be held responsible for facilitating and accommodating you so that you can do the job as mandated under P.L. 94-142. Corrections must reach out to you, just as you must reach in to the kids in prison.

The problems of implementing P.L. 94-142 in corrections are well known. (Corrections has always been good at delineating problems.) Frequently cited are:

- Shortage of trained staff
- Shortage of money
- Lack of interagency agreements and cooperation
- High turnover of population (6 month average)
- Frequent transfer of clients
- Short stay of many clients
- Lack of IEP's upon arrival
- Inadequate time, staff, and funds for required assessments
- Difficulty in locating and involving parents
- Difficulty in finding and training legally acceptable surrogate parents when needed
- Lack of continuity from school-prison-back to school

Certainly you cannot solve all these problems for corrections. But you can

help corrections solve most of them. Let me suggest a few ways.

1. You hold the key to better training. Through whatever professional base you have (public schools, colleges, professional organizations, social agencies), extend your assistance to law enforcement, court, and corrections personnel to help them learn to identify handicapped offenders. Extend training opportunities to teachers in corrections (and ask them to train you in corrections).

2. Help correctional administrators understand the law and its implementation.

3. Join hands with corrections staff to demand from legislatures and SEA's the resources required to comply with the law.

4. Become expert witnesses in court if and when requested.

5. Help develop program models specifically for corrections and disseminate these through correctional professional channels as well as your own.

6. Join hands with the Correctional Education Association (CEA) by joining the CEA and invite CEA members to join your professional associations.

7. Become more activist in lobbying for needed legislation.

   (a) Comment on P.L. 94-142 before November 2 as an organization as well as individuals.

   (b) Join the CEA in actively supporting S. 2084, The Federal Correctional Education Assistance Act of 1982, introduced just a few weeks ago by Senator Pell. It would provide an additional $25 million annually for correctional education including for special education programs as defined by state law.

These are but some things you can do and we can do together.

The handicapped youngsters in our correctional institutions are among P.L. 94-142's most distressed subpopulations. But they do have one thing going for them, their youth. And we can ill afford or justify giving up on anyone whose life, however badly it began, is still mostly to come. Do not doom them to becoming the 60% of adult offenders who have juvenile records. As special educators, you are the last fair chance for these kids. Most of them do not return to school when they leave correctional institutions. No one should expect you to magically turn these multiply disadvantaged kids into Eagle Scouts with college degrees and high paying jobs. But it is your task — our tasks — to ensure that they get the needed assistance to be able to live decently, independently, lawfully, however modestly.

Corrections is famous, or rather infamous, for building walls and other barriers, even some quite unnecessary ones. The result is often that they have been more effective in keeping change agents, resources, and expertise out than in confining either dangerous inmates or the problems of crime. But we need to break through these walls by reaching in as well as reaching out.

Which reminds me of that famous poem by Robert Frost called *Mending Wall*. You probably remember it from school. Two New England farmers meet once every spring to repair the stone walls separating their properties. One of them keeps referring to the old adage: "Good fences make good neighbors." But the other one is wondering:

> Why do they make good neighbors?
> Before I build a wall I'd ask to know
> What I was walling in or walling out,
> And to whom I was like to give offense.
> Something there is that doesn't love a wall,
> That wants it down.

That something that doesn't love a wall is, of course, our common humanity.

However much we, or society, might fight the idea, we do have to recognize that handicapped, delinquent, difficult, and ornery though they may be, the youngsters in our correctional facilities are more like us than they are not, are more like our own kids than they are not. They are, for all their flaws and troubles, very much part of our human family and local communities. If we always keep that in mind, we know that we cannot afford to shut them off or let them down.

A conference such as this should not be only a forum for the exchange of research findings or professional experience. It should also be a very significant step in tearing down the walls between correctional staff and outside experts, between needy youngsters inside and the services and resources existing on the outside. We have a long way to go before we can honestly say that our work is done, that every incarcerated youth has had the opportunities, programs, services, and support required to have a fair chance for a decent and lawful life. Education, and in many cases special education, is the key. And the responsibility for that special education, as P.L. 94-142 so wisely recognized, rests primarily on the education community, not on corrections.

I started my remarks by citing an observation which is at least as old as the Bible that a society's degree of civilization can be measured by how it treats its most unfortunate and vulnerable citizens — the young, the old, the sick, the handicapped, the victims of crime, as well as the incarcerated. If measured by that standard America, I'm afraid, has not yet reached a very high level of civilization. However, over the last 25 years or so, great strides have been taken through a variety of social legislation towards better support for and care of our most unfortunate fellow citizens. P.L. 94-142 is one of the milestones in this development by trying to ensure that a free, appropriate public education is made available to all, not some, handicapped children. In concept it is a great victory for a civilized America. Implementation, however, still lags behind, especially in terms of delinquent youths. We cannot afford to backtrack now, either in terms of watering down the law, reducing the funding, making exceptions in who is to be served, or in lessening our professional and personal commitments.

I was much taken with one remark make by Mike Nelson when he said: "One of our society's highest ambitions is to protect all the species we have endangered." I submit that our handicapped youngsters in correctional institutions are very near the top of the list of endangered species. Let it not be said that we have done a better job of protecting the Bald Eagle, the California Condor, the Pandas in the Washington Zoo, or the little Snail Darter in a Tennessee River, than of protecting our own endangered children.

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